

Senate Study Bill 3055 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED ATTORNEY GENERAL
BILL)

A BILL FOR

1 An Act relating to crime victims, including restitution plan
2 hearings, crime victim compensation, and the identity theft
3 passport program.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 715A.9A, subsection 1, paragraph a, Code
2 2011, is amended to read as follows:

3 a. Is a victim of identity theft in this state as described
4 in section 715A.8 or is a resident of this state who is a victim
5 of identity theft.

6 Sec. 2. Section 910.7, subsections 2 and 3, Code 2011, are
7 amended to read as follows:

8 2. After a petition has been filed, the court, at any time
9 prior to the expiration of the offender's sentence, provided
10 the required notice has been given pursuant to subsection
11 3, may hold a hearing and modify the plan of restitution or
12 the restitution plan of payment, or both, and may extend
13 the period of time for the completion of restitution. If a
14 hearing involving the crime victim compensation program is
15 conducted, an employee of the crime victim compensation program
16 or the attorney for the crime victim compensation program may
17 participate by telephone.

18 3. If a petition related to a plan of restitution has
19 been filed, the offender, the county attorney, the department
20 of corrections if the offender is currently confined in a
21 correctional institution, the office or individual who prepared
22 the offender's restitution plan, other witnesses, and the
23 victim shall receive notice prior to any hearing under this
24 section.

25 Sec. 3. Section 915.80, subsection 2, Code 2011, is amended
26 to read as follows:

27 2. a. "Crime" means any of the following:

28 (1) ~~conduct~~ Conduct that occurs or is attempted in this
29 state, poses a substantial threat of personal injury or death,
30 and is punishable as a felony or misdemeanor, or would be so
31 punishable but for the fact that the person engaging in the
32 conduct lacked the capacity to commit the crime under the laws
33 of this state.

34 (2) A violation of section 715A.8.

35 (3) The financial exploitation of a person who is sixty-five

1 years of age or older or is a dependent adult as defined
2 in section 235B.2. For the purposes of this subparagraph,
3 "financial exploitation" means the criminal act or process of
4 taking unfair advantage of a person for one's own personal or
5 pecuniary profit, without the informed consent of the person,
6 including theft, by the use of undue influence, harassment,
7 duress, deception, false representation, false pretenses,
8 forgery, fraudulent practices, or securities fraud.

9 b. "Crime" does not include conduct arising out of the
10 ownership, maintenance, or use of a motor vehicle, motorcycle,
11 motorized bicycle, train, boat, or aircraft except for
12 violations of section 321.261, 321.277, 321J.2, 462A.7,
13 462A.12, 462A.14, or 707.6A, or when the intention is to cause
14 personal injury or death.

15 c. A license revocation under section 321J.9 or 321J.12
16 shall be considered by the department as evidence of a
17 violation of section 321J.2 for the purposes of this
18 subchapter. A license suspension or revocation under section
19 462A.14, 462A.14B, or 462A.23 shall be considered by the
20 department as evidence of a violation of section 462A.14 for
21 the purposes of this subchapter.

22 Sec. 4. Section 915.80, Code 2011, is amended by adding the
23 following new subsection:

24 NEW SUBSECTION. 4A. "*Homicide victim survivor*" means any
25 of the following:

26 a. A homicide victim's spouse, parent, child, grandparent,
27 aunt, uncle, niece, nephew, sibling, grandchild, first cousin,
28 great-grandparent, great-aunt, great-uncle, great-niece,
29 great-nephew, great-grandchild, fiance, legal custodian,
30 legal ward, legal guardian, step-parent, step-child,
31 step-sibling, step-grandparent, step-aunt, step-uncle,
32 step-grandchild, step-niece, step-nephew, step-first-cousin,
33 step-great-grandchild, step-great-grandparent, foster child,
34 foster parent, foster sibling, brother-in-law, sister-in-law,
35 mother-in-law, father-in-law, daughter-in-law, son-in-law,

1 step-brother-in-law, step-sister-in-law, step-mother-in-law,
2 step-father-in-law, step-daughter-in-law, or step-son-in-law.

3 *b.* The spouses of persons identified in paragraph "a".

4 *c.* A former intimate partner of a homicide victim who has
5 legal guardianship of the victim's children.

6 *d.* A person cohabiting with a homicide victim at the time
7 of the crime.

8 Sec. 5. Section 915.86, subsections 3, 4, 9, 10, 13, 14, and
9 15, Code Supplement 2011, are amended to read as follows:

10 3. Loss of reasonable income from work that ~~the victim's~~
11 ~~parent or caretaker~~ a secondary victim would have performed and
12 for which ~~the victim's parent or caretaker~~ a secondary victim
13 would have received remuneration ~~for up to three days after~~
14 ~~the crime or the discovery of the crime~~ to allow ~~the victim's~~
15 ~~parent or caretaker~~ a secondary victim to assist the victim
16 and when ~~the victim's parent or caretaker~~ a secondary victim
17 accompanies the victim to medical and counseling services,
18 not to exceed one thousand dollars per ~~parent or caretaker~~
19 secondary victim.

20 4. Loss of reasonable income from work that the victim, ~~the~~
21 ~~victim's parent or caretaker, or the survivor of a homicide~~
22 ~~victim as described in subsection 10~~ a secondary victim, or a
23 homicide victim survivor would have performed and for which
24 that person would have received remuneration, where the loss of
25 income is a direct result of cooperation with the investigation
26 and prosecution of the crime or attendance at medical or
27 counseling services, funerals, or criminal justice proceedings
28 including the trial and sentencing in the case, not to exceed
29 one thousand dollars per person.

30 9. In the event of a homicide, reasonable charges incurred
31 for health care for ~~the victim's spouse; child, foster child,~~
32 ~~stepchild, son-in-law, or daughter-in-law; parent, foster~~
33 ~~parent, or stepparent; sibling, foster sibling, stepsibling,~~
34 ~~brother-in-law, or sister-in-law; grandparent; grandchild;~~
35 ~~aunt, uncle, or first cousin; legal ward; or person cohabiting~~

1 ~~with the victim,~~ a homicide victim survivor, not to exceed
2 three thousand dollars per homicide victim survivor.

3 10. In the event of a homicide, loss of reasonable income
4 from work that, but for the death of the victim, would have
5 been earned by ~~the victim's spouse; child, foster child,~~
6 ~~stepchild, son-in-law, or daughter-in-law; parent, foster~~
7 ~~parent, or stepparent; sibling, foster sibling, stepsibling,~~
8 ~~brother-in-law, or sister-in-law; grandparent; grandchild;~~
9 ~~aunt, uncle, or first cousin; legal ward; or person cohabiting~~
10 ~~with the victim~~ a homicide victim survivor, not to exceed six
11 thousand dollars per homicide victim survivor.

12 13. Reasonable dependent care expenses incurred by the
13 victim, ~~the victim's parent or caretaker, or the survivor of~~
14 ~~a homicide victim as described in subsection 10~~ a secondary
15 victim, or a homicide victim survivor for the care of
16 dependents while attending medical or counseling services,
17 funerals, or criminal justice proceedings ~~or medical or~~
18 ~~counseling services~~ including the trial and sentencing in the
19 case, not to exceed one thousand dollars per person.

20 14. Reasonable expenses incurred by a victim, ~~the victim's~~
21 ~~parent or caretaker, or the survivor of a homicide victim as~~
22 ~~described in subsection 10~~ a secondary victim, or a homicide
23 victim survivor to replace or install locks, windows, and other
24 residential security items at the victim's or homicide victim
25 survivor's residence or at the residential scene of a crime,
26 not to exceed five hundred dollars per residence.

27 15. Reasonable expenses incurred by the victim, a secondary
28 victim, ~~the parent or guardian of a victim, or the survivor of~~
29 ~~a homicide victim as described in subsection 10~~ or a homicide
30 victim survivor for transportation to medical, or counseling
31 services, funeral funerals, or criminal justice proceedings
32 including the trial and sentencing in the case, not to exceed
33 one thousand dollars per person.

34 Sec. 6. Section 915.87, Code 2011, is amended by adding the
35 following new subsection:

1 NEW SUBSECTION. 3. Compensation shall not be made to a
2 secondary victim or a homicide victim survivor if the victim
3 is ineligible for compensation.

4 Sec. 7. Section 915.94, Code 2011, is amended to read as
5 follows:

6 **915.94 Victim compensation fund.**

7 1. A victim compensation fund is established as a separate
8 fund in the state treasury. Moneys deposited in the fund shall
9 be administered by the department and dedicated to and used
10 for the purposes of section 915.41 and this subchapter. In
11 addition, the department may use moneys from the fund for ~~the~~
12 ~~purpose of~~ the following:

13 a. The department's prosecutor-based victim service
14 coordination, including the duties defined in sections 910.3
15 and 910.6 and this chapter.

16 b. ~~and for the~~ To award of funds to programs that provide
17 services and support to victims of domestic abuse or sexual
18 assault as provided in chapter 236, to victims under section
19 710A.2, and for the support of an automated victim notification
20 system established in section 915.10A.

21 c. To implement the identity theft passport program
22 established by rule pursuant to section 715A.9A.

23 2. The department may also use up to one hundred thousand
24 dollars from the fund to provide training for victim service
25 providers.

26 3. Notwithstanding section 8.33, any balance in the fund on
27 June 30 of any fiscal year shall not revert to the general fund
28 of the state.

29 EXPLANATION

30 This bill relates to crime victims, including restitution
31 plan hearings, crime victim compensation, and the identity
32 theft passport program.

33 The bill allows for the issuance of an identity theft
34 passport to a person who is a resident of Iowa who is the
35 subject of identity theft outside of Iowa, in addition to

1 victims of identity theft in Iowa.

2 The bill provides that if a hearing involving the crime
3 victim compensation program is conducted, an employee of the
4 crime victim compensation program of the department of justice
5 or the program's attorney may participate in the hearing by
6 telephone. The bill includes witnesses in the list of persons
7 and entities who shall receive notice that a petition relating
8 to a plan of restitution has been filed.

9 The bill expands the definition of a "crime" for purposes of
10 the crime victim compensation program to include a violation
11 of Code section 715A.8 (identity theft) and the financial
12 exploitation of a person who is 65 or older or who is a
13 dependent adult as defined in Code section 235B.2. "Financial
14 exploitation" means the criminal act or process of taking
15 unfair advantage of a person for one's own personal or
16 pecuniary profit, without the informed consent of the person,
17 including theft, by the use of undue influence, harassment,
18 duress, deception, false representation, false pretenses,
19 forgery, fraudulent practices, or securities fraud.

20 The bill distinguishes two categories of persons who are
21 eligible for compensation for economic losses incurred as a
22 direct result of an injury to or death of a victim: a "homicide
23 victim survivor" (defined in the bill) and a "secondary victim"
24 (defined in Code section 915.80).

25 The bill specifies that a loss of income due to missed work
26 days for various categories of persons who may be awarded crime
27 victim compensation shall be computed based upon the loss of
28 reasonable income. The bill includes an award of compensation
29 for such income for missed work days that the victim, secondary
30 victim, or a homicide victim survivor would have performed
31 where the loss of income is due to attendance at medical or
32 counseling services or funerals, in addition to current law
33 which allows compensation in such cases for attendance at
34 criminal justice proceedings. The bill also includes an award
35 of compensation for reasonable dependent care expenses incurred

1 by a victim, secondary victim, or a homicide survivor due to
2 attendance at funerals.

3 The bill provides that compensation shall not be made to a
4 secondary victim or a homicide victim survivor if the victim
5 is ineligible for compensation.

6 The bill allows moneys from the victim compensation fund
7 to be used to implement the identity theft passport program
8 established by rule pursuant to Code section 715A.9A.